

CIVIL SERVICE COMMISSION
REGULAR MONTHLY MEETING
Monday, January 9, 2017

The regular monthly meeting of the City Civil Service Commission was held on Monday, January 9, 2017 at 1340 Poydras Street, Suite 964. Ms. Doddie Smith, Personnel Administrator of the Management Services Division, called the roll. Present were Chairperson Michelle D. Craig, Vice-Chairperson Ronald P. McClain, and Commissioner Joseph Clark representing a quorum. Chairperson Craig convened the meeting at 10:17 a.m. The Commission then proceeded by sounding the Commission's docket. At 10:28 a.m. on motion of Vice-Chairperson McClain and second of Commissioner Clark, the Commission voted unanimously to go into executive session.

At 10:56 a.m. the Commission completed its executive session and proceeded with the business portion of the meeting.

Item #1 was the minutes from the December 21, 2016 meeting. Commissioner Clark moved to approve the minutes. Commissioner McClain seconded the motion and it was approved unanimously.

Item #2 was a report on delegation of authority to the Sewerage and Water Board (S&WB). Chairperson Craig asked if there was anyone from S&WB present who wanted to speak on the item. There being no response, Brendan Greene, Executive Counsel for the Civil Service Commission, reported that staff had trained three S&WB employees on the delegated processes since June of 2016. The first employee left in September of 2016, the second employee left in December of 2016, but was hired by Civil Service and is now engaged in S&WB related tasks; the third person has also given his two weeks' notice. Chairperson Craig asked if it was known why this position has had frequent turnover. Mr. Greene stated he did not know, but stated that the first employee had another opportunity in City government, the second wanted a change of scenery and to his knowledge no one has reached out to the third employee. Chairperson Craig then asked if the employees who left were young employees. Mr. Greene stated that the first employee was new and the second two had been with S&WB for a few years.

Mr. Greene went on to report that citing a staffing crisis in its Human Resources Division, S&WB has asked for a focused and abbreviated training on screening applications and creating eligible lists. Training would be for

half days for one week. Civil Service staff has agreed to conduct this training. Commissioner McClain asked what the staff thought of the request for abbreviated training. Mr. Greene responded that staff does not think this amount of training will be sufficient to equip S&WB employees with the necessary knowledge and skills to conduct these screenings. Nevertheless, staff is ready to do so and report back. Commissioner McClain asked what the alternative would be if staff did not agree to provide the training. Mr. Greene responded that the alternative would be that someone on the Civil Service staff would perform the work. Commissioner McClain questioned if that set up would be a move away from the currently delegated work. Mr. Greene responded affirmatively. He further stated that staff has committed to making delegation work, but the constant turnover leads to constant training, pulling staff away from other work. He stated the screening of applicants for existing job postings is S&WB's priority. He reminded the Commission that the three-pronged test for the constitutionality of delegation includes a clear expression of legislative policy, sufficient guides, and sufficient procedural safeguards. He stated that training factors into prongs two and three. Mr. Greene recommended that the Commission defer to the Personnel Director regarding the need for any remedial training necessary to ensure the constitutionality of delegation.

Commissioner McClain asked for the status of the significant number of vacant positions that S&WB has the authority to move forward on filling without the Civil Service staff. Mr. Greene responded that since S&WB presented the list of positions, Civil Service staff had determined that 90% of the vacancies were in positions that had been delegated, open to application, or in citywide positions with existing eligible lists. Commissioner McClain asked what S&WB has done to respond to that figure. Mr. Greene stated that S&WB had attributed difficulties to a need to reorganize their human resources staff. S&WB's focus has shifted to giving hiring managers in the field the tools they need. Civil Service staff has approved the human resources reorganization. There are 32 employees on the human resources organizational chart. Several of these allocations are for Management Development Analysts and there are existing eligible lists for these positions.

Chairperson Craig stated that it sounded like staff had been responsive to S&WB's problems and issues and that we are in a holding pattern waiting for S&WB to put people into available jobs.

Commissioner McClain stated that part of the rationale for delegation was that there is a bottleneck in the hiring process and that delegation would help to expedite that process. It does not appear that delegation has eased the bottleneck due to the turnover in S&WB's human resources division and the fact that S&WB could act on many of these positions without Civil Service.

Mr. Greene stated that some eligible lists, for example Water Service Inspector, have over 400 people on them because they are posted continuously. Chairperson Craig asked if there were currently any vacancies for that job classification. Mr. Greene responded that there were eight vacancies currently listed on S&WB's vacancy report.

Commissioner McClain stated he has serious concerns about this delegation process. It does not appear to be working the way that was represented to the Commission by S&WB. He went on to say that he was concerned that no one from S&WB was in attendance to address this issue. He further stated the Commission wants them to be here and is seriously considering revising this rule change. The Commission wants to hear from S&WB as to what is really going on and then it will have any opportunity to make a decision as to whether or not the delegated process is working. If it is not working, we need to try a different strategy. Commissioner McClain strongly requested that the Human Resources Director or Superintendent come forward for the next report on delegation and answer questions as to whether the process is still viable.

Item #3 was a proposed amendment to Rule II to create a new section 8.4: Refusal to Testify; False Testimony. Brendan Greene stated that the rule was introduced at the December meeting. Prior to the Great Place to Work rule changes a lot of this was covered by statute. The rule changes removed the reference to the Revised Statutes in the definition of law. He went on to state that he had received feedback from the hearing examiners and characterized their changes as largely cosmetic. They wanted to make sure that their authority with respect to evidentiary matters during the course of a hearing was recognized by the rules. If during the course of a hearing the examiner directs someone to respond to a question or produce a document they can hold him or her in contempt on the record if a person fails to do so.

Alexandra Norton, representing the Administration, reported that the City Attorney has reviewed the proposed rule and did not have any issues with it.

Commissioner McClain moved adoption of the proposed rule with the changes recommended by the hearing examiners. The motion was seconded by Commissioner Clark and approved unanimously.

Item #4 was a request from Attorney Eric Hessler to amend Rule II, Section 4.21 to allow for granting of attorney fees for the filing of frivolous, malicious and/or obvious dilatory motions. Mr. Hessler stated that a couple of months ago the City Attorney's Office had requested attorney's fees for an alleged frivolous appeal. On the day it was to be heard, the City Attorney's office withdrew it. At that time Mr. Hessler wanted to file for attorney's fees from the City Attorney's office. It was then he learned that the Civil Service rules only allowed for the granting of attorney's fees for the malicious or frivolous appeals. He stated he believes sometimes the motions filed are intentionally dilatory. All the proposal does is add frivolous, malicious and/or obvious dilatory motions to then warrant attorney's fees. He stated it will help to streamline the process and it will give the Commission the ability to curtail that behavior. Director Hudson suggested this be considered the introduction of the rule and let it lie over for thirty days under consideration.

Commissioner McClain asked Mr. Hessler if there are elements to determine if a motion is frivolous, malicious and/or dilatory. Mr. Hessler stated it would be up to the mover to present evidence in support of their motion or if the Commission saw an intentional effort to chill a person filing an appeal. Commissioner McClain asked Mr. Hessler if he was suggesting that withdrawal on the day of consideration be an element. Mr. Hessler responded affirmatively.

Item #5(a) was a request from Attorneys Raymond Burkart, Jr. and Eric Hessler to petition the Commission to conduct an investigation of the Police Background Investigation Process and Police Commander Job Study. Eric Hessler, speaking on behalf of PANO, stated he was petitioning the Commission to investigate the activities of Jonathan Wisbey, Deputy Chief of Staff. He alleged that Mr. Wisbey has meddled into the Commission's investigation into the Pay Investigation of Police Commander. He stated that Mr. Wisbey had met with Commanders, provided them with the Captain job description, and instructed them to fill out the Civil Service questionnaires in a manner that is contrary to the Police Captain position.

Commissioner McClain asked Mr. Hessler why he believed that to be true. Mr. Hessler responded that he was told that by someone who was present.

The Commanders were instructed to turn the questionnaires in to Mr. Wisbey who made sure they were vetted or made sure they were in compliance with their instructions. Mr. Hessler believes that is unethical. He asked that the matter be investigated and stated this is not the way the Civil Service investigation into Commander pay should go.

Mr. Hessler went on to state that secondly; Mr. Wisbey violated the rules of Civil Service when he intentionally overruled the findings of background investigators on potential Police Recruits. This is very concerning. We need good police officers badly and this can get Police Officers killed. He further stated that this should be investigated. Civil Service sets standards for hiring and for those to be tossed out and have the Investigators' opinions overridden are of grave concern.

Commissioner McClain asked Mr. Hessler if he was aware of any effort to bring this information to the attention of the Police Superintendent. Mr. Hessler stated that it was his understanding that members of the Department of Justice Consent Decree team and the Public Integrity Bureau are investigating the matter. Those investigations are somewhat different in that they are investigating whether Consent Decree rules and Police Department rules were violated. We want the Commission to investigate whether the Commission's rules were violated.

Commissioner McClain asked Mr. Greene if the Commission had a responsibility to investigate. Mr. Greene stated the background investigation is a secondary examination requested by the Police Department. It is in addition to the minimum qualifications. It is something that Civil Service has input and feedback into regarding what the investigation looks like. Mr. Greene stated we know that the Consent Decree monitors have been looking into it. It makes sense to wait for their investigation to conclude and then ask for their findings. It would equip the Commission to make any decisions with respect to any different investigation they need to conduct. The Civil Service issue is did NOPD make representations to Civil Service as to what disqualifies someone and if those standards are not consistently established. Mr. Greene recommended waiting on those results before asking him or staff to investigate the matter.

Commissioner McClain clarified that what he was hearing is for the Commission to wait, read the report and that should facilitate the investigation. He asked Mr. Greene if there was a timeline on the report. Mr.

Greene stated he would reach out to the monitors, but that they seemed to be far along with the report.

Mr. Greene stated he didn't see a problem with covering that particular subject in concert with the contradictory and evidentiary hearing that has to happen anyway.

Mr. Hessler stated that as long as it is understood that it is to be part of that investigation, he is satisfied. He further requested to amend his request to be limited to the investigation of the violation of the rules of Civil Service in regard to overriding the Civil Service rules. If there are officers who were given waivers and were not qualified it is better to know now.

Mr. Greene stated that with respect to the content of the contradictory and evidentiary hearings regarding the commanders issue, if the parties have an understanding that this is going to be a subject that the hearing officer has authority to address we can refer back to the minutes.

Commissioner McClain asked Mr. Hessler if he was withdrawing his request for investigation. Mr. Hessler replied that he was not in regard to the waivers.

Commissioner McClain stated that the motion is to wait for the report from the monitors on the police background investigation process. We will still investigate, but we will wait for that recourse first. We will have the Hearing Examiner investigate the potential influence of Mr. Wisbey on the completion of the surveys. Commissioner Clark seconded the motion and it was approved by all.

Item #6(a) under Requests from the Police Department was a request to create the new position of Recruitment Director to manage the Applicant Investigation Section of the Police Department. Robert Hagmann reported that staff, at the request of the Superintendent, is recommending the creation of a new classification titled Police Recruitment and Applicant Investigation Administrator. The position would be exempt with a pay grade of 90 and a minimum salary of \$63,960. The position will report to a Deputy Superintendent and will manage and supervise the activities of commissioned and civilian staff in the Recruitment and Applicant Investigations Division.

Commissioner McClain asked if this position is in place would that mean that Jonathan Wisbey no longer has a roll in vetting Police Recruit applicants.

Alexandra Norton responded affirmatively. She went on to state that the Deputy Chief of Staff job had grown a large set of responsibilities and we needed one person entirely dedicated to recruitment. We are grateful to staff for creating this position so quickly.

Mike Glasser, representing PANO, stated that NOPD is creating yet another civilian position. It is in the Commission's purview to determine if this is actually necessary. It should be determined if another position could perform this work. We live in a world of limited resources. I'm concerned with if this money is going to the best place. First, we created a Deputy Chief of Staff, this was previously a commissioned officer, and also hired a contractor to be the Chief of Staff. He further stated we don't know what the Deputy Chief of Staff will be doing. He questions if we are abolishing that position. The Commission needs to find out what went wrong with the recruiting position it created last year. He stated he is concerned that we are rubber stamping these positions. He questioned how we will know if these positions are successful. NOPD spends a lot of money recruiting, but does nothing to keep the people we recruit.

Alexandra Norton stated that recruitment is a full time job. There are a number of other responsibilities the Deputy Chief of Staff will retain including managing the Early Warning System, working with the Compliance Monitors and the Consent Decree. If you look at the minimum qualifications, we are looking for someone with recruitment experience.

Commissioner McClain asked Ms. Norton if she was aware if Judge Morgan has a position on the Recruitment Director position. Ms. Norton responded that these positions are in line with what Judge Morgan supports.

Mr. Glasser then questioned if, at the time of creation of the Deputy Chief of Staff position, we knew that this is what the judge wanted. He stated that there is already a Bureau Chief over Compliance, so I'm not sure why the Chief of Staff would also need oversight over Compliance. I'm not sure this can't be done in house rather than by creating a new position. Alexandra Norton stated there is no duplication of work.

Commissioner McClain asked for staff's position on the Recruitment Director position. Robert Hagmann stated that staff supports the creation of the new classification of Recruitment Director. He further stated that this is a highly

specialized and dedicated position. It is a new enhanced role over both Recruitment and Applicant Investigations.

Mr. Hessler stated that Mr. Wisbey created the Deputy Chief of Staff and included Recruitment and Applicant Investigations as part of the duties and now he is absolving himself of these duties. He questioned if there was someone within the police department, where it has historically been done, that can do the job. He further stated that we are making more civilian positions that were formerly done by Police Officers.

Chairperson Craig clarified that this is a classified position.

Mr. Hessler then commented that Police Officers are one of the biggest stakeholders in getting good recruits. Alexandra Norton stated that there is a Lieutenant, Sergeants and Police Officers serving as investigators in the division. She also added the current employees would not be precluded from applying for this position.

Commissioner McClain asked if there was anyone at NOPD who could do this job. Alexandra Norton stated that this is clearly a civilian job. We don't want an Officer being pulled away from calls for service to do this.

Mr. Glasser stated that there is nothing in the announcement that requires the individual to have working knowledge of policing in the City of New Orleans. He also clarified that this is a high level position and as such it is not someone who would be taken away from answering calls for service. He also stated that this is advanced level work.

Commissioner McClain advised Ms. Norton that he would hope the Administration would take Mr. Glasser and Mr. Hessler's comments into consideration.

Commissioner Clark asked how many Police Officers would meet the listed minimum qualifications. Mr. Glasser replied that the Recruitment and Applicant Investigations Division was handled solely by NOPD until a few years ago, so there may be several people who qualify.

Commissioner McClain added that he is supporting this request because it is responsive to concerns about the current process.

Commissioner McClain moved approval of the Recruitment Director position. Commissioner Clark seconded the motion. The motion was then approved unanimously.

Item #6(b) under Requests from the Police Department was a request to create the new position of Application Manager to manage the Police Department's Early Intervention System. Robert Hagmann stated this item was at the request of NOPD. He stated staff is recommending creation of a new classification titled Police Application Specialist (Early Intervention System). This position would be an exempt position at pay grade 78 with a minimum salary of \$47,471 and a midpoint of \$60,859. The position would provide technical and project management support for Insight system and streamlines and integrates nine current softwares for the purpose of a police support system. Alexandra Norton added that this position puts the City at the forefront of having this type of application.

Commissioner McClain moved approval of the new classification. Commissioner Clark seconded the motion and the motion carried unanimously.

Item #7(a) under Classification and Compensation Matters was a request from former Finance Operations Manager, Marilyn Richardson, for uniform pay within the Finance Department. Director Hudson requested deferral because Ms. Richardson was not in attendance.

Item #7(b) under Classification and Compensation Matters was a request for retroactive Extraordinary Qualifications Pay for Information Technology Manager, Jerome Pinkston. Director Hudson requested to defer this matter because Commissioner Clark had to recuse himself which eliminated the quorum.

Item #8(a) under Recruitment and Selection Matters was the approval of the extension of provisional appointments in accordance with Rule VI, Section 5.3 (a). Director Hudson stated that this is a regular request made annually. She stated that she is requesting to continue provisional appointments in excess of one year for the listed classifications until such time as eligible list can be established.

Nicholas Felton, President of the New Orleans Firefighters Association (Local #632), asked if Fire Apparatus Operators and Deputy Fire Chiefs were listed on the report. Director Hudson responded affirmatively.

Commissioner McClain then moved to approve the extension. Commissioner Clark seconded the motion and it was approved unanimously.

Item #8(b) under Recruitment and Selection Matters were announcements #9465 to #9477. Commissioner McClain moved to approve the announcements. Commissioner Clark seconded the motion and it was approved unanimously.

Item #9 was ratification of Public Integrity Bureau (PIB) 60 day extension requests. Chairperson Craig called for public comment. There being none, Commissioner McClain moved to approve the extensions. Commissioner Clark seconded the motion and it was approved unanimously.

Item #10 (a) under communications was a report on ADP ongoing issues. Robert Hagmann reported that staff continues to work with the Finance Department on training relative to ADP issues. Staff has worked with Finance on implementing hiring rates for approximately one hundred people in conjunction with the Accountant hiring rates. Staff has also worked on programming changes into the system for over 100 new unclassified positions and on budget code changes for departments. A good job is being accomplished. There is always lots of work to do because changes before the Commission require changes in the payroll system.

Clifton Moore, New Orleans Firefighters Association (Local #632), stated that there was an issue with payment in ADP regarding timecard coding for a person who is required to work in a higher capacity while working overtime. Mr. Moore also raised the issue of people required to work in a higher class who don't have the certifications to do so.

Commission McClain asked Robert Hagmann if he was aware of the issue. Mr. Hagmann responded that he was not, but that he would look into it.

Item #10(b) was a report on Civil Service Budget and Staffing. Director Hudson reported that she had sent the Commissioners a copy of the RFQ for hearing examiners which had been released on December 21st. She reported

that proposals are due on January 26th and the selection committee is scheduled for January 31st.

Director Hudson added that the Commission election for employee representative is approaching, but the Department did not receive funding for the election. She stated she would make another request to the Chief Administrative Office to fund the election. Commissioner McClain asked how much it would cost. Director Hudson stated \$8,000 to \$9,000. Alexandra Norton stated she would be happy to work with Civil Service to do it in-house. Director Hudson said that staff had previously done it in-house, but the Administration preferred to contract it out. Commissioner McClain asked Ms. Norton if she could assist with the funding. Ms. Norton responded affirmatively.

Director Hudson then reported that the Retirement Board Election is also coming up. Commissioner Clark asked Director Hudson when it would occur. Ms. Hudson stated the run off would be held in June.

Also under this item, Ms. Hudson reported there was an ongoing issue with space for employees. She stated we have a request into the administration to fill two vacant Analyst positions in the Recruitment Division and after those are filled we will not have any more space. She stated she had made a capital budget request and requested space in the Department's budget hearings.

Item #10 (c) was a report on the comprehensive classification and salary study. Alexandra Norton reported that the Administration had finished work on the contract and it is currently routing. There were funding issues that had been resolved. There will be a staff advisory team that includes Administration members and Civil Service staff members.

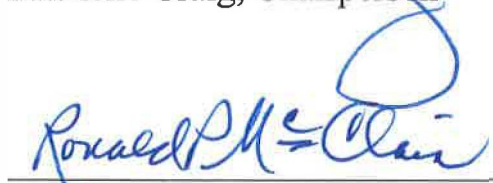
Commissioner McClain asked what the timeline for completion was. Ms. Norton replied that it was six months. Chairperson Craig stated that the goal was to try to do it less than six months. Ms. Norton agreed. Chairperson Craig stated that by the Commission's next meeting there should be a signed contract and kick off meeting. Alexandra Norton agreed.

Clifton Moore questioned what methodology would be used. Ms. Norton explained that it would be standard methodology and that job questionnaires would be collected and reviewed by the firm. Mr. Moore then asked if the overall goal was to reduce the number of classifications or increase salary. Ms. Norton responded that it was both. Mr. Felton then asked if the union would be included on the advisory team. Ms. Norton responded it would not.

There being no additional business to consider, Commissioner Clark moved for adjournment at 12:29 pm. The motion was seconded by Commissioner McClain and approved unanimously.



Michelle Craig, Chairperson



Ronald McClain, Vice Chairperson